

United States District Court

WESTERN DISTRICT OF WASHINGTON

DAVID ALLEN HAWKINS,

v.

JUDGMENT IN A CIVIL CASE

No. C91-5415 RJB/KLS

PATRICK GLEBE,

____ **Jury Verdict.** This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.

 X **Decision by Court.** This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

THE COURT HAS ORDERED THAT

1. The Report and Recommendation carefully and thoroughly reviewed the procedural history and facts related to petitioner's ineffective assistance of counsel claim. The concurs with the magistrate judge that the claims petitioner raises related to Mr. Randolph's performance would constitute a second or successive petition under 28 U.S.C. § 2244; the Ninth Circuit U.S. Court of Appeals has denied petitioner's request to file a second or successive petition. Moreover, petitioner's ineffective assistance of counsel claims, related to his appellate counsel, and related to Mr. Randolph, are without merit. The Court **ADOPTS** the Report and Recommendation (Dkt. 53).
2. Petitioner's claims for habeas relief are **DENIED**. This case is **DISMISSED WITH PREJUDICE**.
3. On March 10, 2011, petitioner filed a document, requesting that he be granted an extension of time to obtain a Certificate of Appealability. Dkt. 23. That request is **DENIED**. Plaintiff is under the misapprehension that he needs to obtain, from somewhere, a Certificate of Appealability. However, this court is the proper body to decide whether a Certificate of Appealability should be granted. Under Rule 11 of the Rules Governing Section 2254 Cases in the United States District Court, the district court must issue or deny a Certificate of Appealability when it enters a final order adverse to the applicant.
4. In the event that petitioner files an appeal with the Ninth Circuit U.S. Court of Appeals, a Certificate of Appealability is **DENIED**, consistent with the analysis and recommendation of the Magistrate Judge.

March 25, 2011

Date

WILLIAM M. McCOOL

Clerk

s/ Mary Trent

Deputy Clerk